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INDEPENDENT INVESTIGATION
FOR
CITY OF MERIDEN
OF ALLEGATIONS ADVANCED BY
MERIDEN POLICE OFFICERS
BRIAN SULLIVAN AND DONALD HUSTON
REGARDING
MERIDEN POLICE DEPARTMENT

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May 23, 2012

TABLE OF CONTENTS

Summary of Findings.....	1
Internal Affairs Investigations of Allegations of Excessive Force by Officer Evan Cossette.....	4
Pedro Temich Catemaxca / Cossette I.A.10-32	4
Robert Methvin / Cossette I.A. 10-51	8
Joseph Bryans – Cossette I.A. 11-03	12
Allegations of Unreported Excessive Force by Officer Evan Cossette	15
Tackle of female while working with Officer Fry / Case #01-06-008978	15
Meriden Mall Incident with Officer Richard Giamarco / Case #01-09-003360.....	16
Incident on Summer Street with Officer David Buck / Case # 01-10-009738	19
Incident on Curtis Street With Officer Michael Ford / Case #01-10-015075.....	21
Allegations of Disparate Treatment.....	22
Complainant Officer Brian Sullivan – I.A. 10-53.....	22
Complainant Donald Huston – I.A. Complaint 10-57 Meriden Square Mall	25
Complainant Donald Huston –I.A. Complaint 11-13 Tardiness and Untruthfulness	27
Complainant Donald Huston Allegations of Retaliatory Internal Affairs Investigation / I.A. 11-75	29
Disparate Treatment Allegations Non-Complainant Related	31
PBA Bar Incident Involving Detective David Visconte and Officer Brian Wilkinson	31
Investigation of the 2041 Club – Robert Green	32
Brian Lawlor Allegations of Excessive Use of Force / I.A. 05-43	34
Alleged Disparate Treatment Involving Motor Vehicle Operation	38
Alleged Disparate Treatment Relating to Conduct Unbecoming of an Officer.....	40
Conclusion	42

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Summary of Findings

I was retained by the City of Meriden, on May 3, 2011, to conduct an independent investigation into various allegations that have been made by Officer Brian Sullivan and Officer Donald Huston ("Complainants") of the Meriden Police Department. Those allegations are set forth in a memorandum to City Manager Larry Kendzior dated April 1, 2011 and in a subsequent submission to the City Manager titled "disparate treatment examples" (together the "Complaint"). The gravamen of the Complaint alleges nepotism, favoritism, and disparate treatment in regard to the investigation and discipline related to misconduct by officers within the department. Additionally, the Complaint alleges that there have been several instances of unlawful, excessive force by Officer Evan Cossette, the son Chief of Police Jeffry Cossette over the course of his tenure with the Meriden Police Department ("MPD"). Those allegations of a pattern of excessive force include matters where there has been a complaint filed and an internal investigation conducted by the Meriden Police Department, and other instances where it was alleged Officer Cossette engaged in excessive force and reports of that force were not made by other officers and/or not investigated, because of his status as the son of the Chief of Police, and other officers did not report him because they were fearful of retaliation from the Chief. It is alleged that Officer Cossette received favorable treatment in regard to conduct that was investigated, and that all of his instances of excessive force have been covered up. The allegations pertaining to nepotism, favoritism and disparate treatment are asserted against Chief Cossette and Deputy Chief Timothy Topulos, as well as Sergeant Leonard Caponigro and Sergeant Glen Milslagle, investigators within the Internal Affairs unit.

The investigation involved the gathering and review of many incident reports, internal affairs investigations, and related correspondence. The review of that material included not only document review, but also review of video and audio tapes and various other pieces of evidence that were made available. The investigation also included the interview of multiple members of the Meriden Police Department as well as various private individuals.

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After completion of the above described investigation, I have concluded that, as to allegations of improper nepotism, favoritism, and disparate treatment within the Meriden Police Department, as alleged by the complainants, that there is insufficient evidence to conclude that such existed and that there was an abuse of discretion by the accuseds in regard to the investigation and discipline relating to the various complaints alleged. This is not to say that this investigator would necessarily agree with the results of each complaint or investigation, or the ultimate discipline applied, but my consideration of all the evidence and circumstances leads me to believe that the evidence is not adequate to support a finding that there was an abuse of discretion in consideration of those complaints. This is so because in part the investigation and the determinations to be made in regard to discipline of police officers requires the consideration of several factors, not only the factual results of a particular investigation, but also the past disciplinary history in regard to a particular officer and an assessment of the officer's acceptance of responsibility and commitment to improvement. My review of all evidence indicates that in all alleged instances the conclusions are reasonable taking into account all factors. As noted above, in certain circumstances I may have reached a different conclusion but the conclusion reached in my view is not an abuse of discretion and the reasons given for a particular discipline are reasonable.

As to allegations of excessive force against Officer Evan Cossette, I have reviewed all alleged incidents related to both previously reported complaints as well as allegations as to incidents not previously brought to the attention of Internal Affairs or MPD management. As to non-reported cases, my investigation leads me to conclude that there was no such alleged excessive force used that would have required a reporting of the incident either by Officer Cossette or other witnessing officers, beyond that which was set forth in various reports relating to the incident. As to the Internal Affairs investigations relating to force by Officer Cossette that were opened and investigated, I find that those investigations were adequate and the conclusions thereof not unreasonable. As to discipline applied as a result of those matters, I may not agree with the discipline imposed, but again find it not to be an abuse of discretion by the ultimate decision maker, in this instance as it relates to complaints against Officer Cossette, Deputy Chief

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Topulos. Moreover, as it relates to various alleged incidences and open Internal Affairs investigations, I have not found adequate evidence to conclude that there was special treatment or consideration given to Officer Cossette because of his status as the son of the Chief of Police. Certainly his status as such causes one to be more inclined to believe that there was such consideration, but my interviews with Deputy Chief Topulos and Chief Cossette, as well as Internal Affairs investigators Sergeant Caponigro and Sergeant Milslagle, indicate that there was no express or implied pressure applied to them to be any more lenient in regard to Officer Cossette's investigations.

Because of the inferences in such situations that some may draw in regard to special treatment for children or family members of decision makers, the City may wish to consider a non-nepotism provision within its policies and procedures, and/or additional processes which would limit that possible inference, such as referring investigations involving decision makers' family members to another law enforcement agency or at least inviting another law enforcement agency to participate in an investigation. Moreover, while I found the Internal Affairs investigations that I reviewed to be reasonable, there are certain recommendations that could be considered that would cause the City and its residents to have more confidence in the rigor of such investigations to various complaints, particularly verifying the communications with complainants in all instances. Additionally, a more frequent and regular rotation of detectives through the Internal Affairs unit may be advisable to assure rigorous investigations and new perspective and ideas.

Internal Affairs Investigations of Allegations of Excessive Force by Officer Evan Cossette

Pedro Temich Catemaxca / Cossette I.A.10-32

The Complainants make several allegations against Officer Cossette in regard to excessive force regarding the arrest of Pedro Temich Catemaxca on Putnam Street on May 2, 2010. The focus of their allegations relates to Officer Cossette pushing Mr. Temich while he was in the holding cell after his arrest. This conduct, as well as the conduct after Mr. Temich fell and struck his head on a concrete bench within the cell, is captured on the video camera within the cell, and has been reviewed extensively. Complainants allege that the push amounted to police brutality, and that Officer Cossette's police report and subsequent statements were completely fabricated to cover up his conduct. In addition, the Complainants allege that Officer Cossette used excessive force at the location of the arrest, Putnam Street, Meriden, when taking Mr. Temich into custody. Additionally, the Complainants allege that supervisors and department management were well aware of this incident shortly after it occurred, but did not initiate an internal affairs investigation immediately. Rather, they allege, notwithstanding management being aware of the incident, an investigation was not initiated until approximately six weeks later when Officer Alan Ganter complained about him being investigated for similar conduct when Officer Cossette was not. At that time, the video of the incident in the holding cell with Mr. Temich was brought to the attention of Internal Affairs and an investigation commenced.

A number of Meriden police personnel were interviewed in regard to this matter, including Lieutenant Richards, Sergeant John Mennone, Officer Jeffrey Sealander, Officer Leighton (Bud) Gibbs and Officer Evan Cossette. Additionally, this incident was reviewed with Sergeant Caponigro, Sergeant Milslagle, Deputy Chief Topulos and Chief Cossette. All relevant police reports as well as the Internal Affairs investigation documents were also reviewed. Each allegation in regard to this incident will be considered in turn.

First, in regard to allegations that Officer Cossette used excessive force while taking Mr. Temich into custody at the arrest location on Putnam Street, there appears to be little if no evidence to support them. Officer Sealander and Officer Huston himself indicate that Mr. Temich was very intoxicated, violent and resistive while being taken into custody on Putnam Street. Officer Sealander noted that only the force necessary in order to take him into custody was used. Despite the allegations in the complaint, Officer Huston also acknowledges that in his interview and his report acknowledges that Mr. Temich was very violent. Moreover, as to the allegations that Officer Sealander turned the case over to Officer Cossette because of the injuries at the time of arrest were adamantly denied by Officer Sealander and that in fact the case was assigned by dispatch. Officer Sealander believed that to the extent there was any impropriety in regard to taking Mr. Temich into custody it was by Officer Huston in failing to use proper cuffing technique. By all accounts Mr. Temich was very intoxicated and very resistant and combative while he was being taken into custody, and the use of force exercised was appropriate under the circumstances. Mr. Temich was interviewed and has no recollection of the arrest or his fall in the holding cell.

Secondly, the Complainants allege that most employees within the Meriden Police Department were aware of this incident for quite some time before the Internal Affairs investigation was commenced, when Officer Ganter complained about the failure for this incident to be investigated. I found Sergeant Caponigro credible when he explained that he had heard nothing of the incident until the video recording was brought to his office by Sergeant Gaynor on June 21, 2010. Moreover, I found Lieutenant Richards and Sergeant Mennone credible when they stated that they were unaware of specifically what had happened inside the holding cell in booking on the evening in question. That is, that they had not seen nor reviewed the video tape of the incident at that time. Therefore, while they knew that Mr. Temich had fallen and struck his head and required medical attention, they were unaware that he had been pushed by Officer Cossette which caused his fall. They were otherwise occupied within the booking area at the time of the push and fall and were not looking within the cell or at the monitors at the time of the fall. Additionally, while the monitors would show what was on the

camera real time, it was not possible to replay the video from the booking area or from dispatch where the video was also apparently observed. Dispatch called medical personnel immediately, even before Sergeant Mennone had called up to make the request. While the Complainants allege that everyone in MPD was immediately aware of what had happened, other officers who were interviewed, including Sergeant Caponigro and Sergeant Milslagle in Internal Affairs and Deputy Chief Topulos and Chief Cossette stated they were unaware of the incident until the video was brought to their attention. I found their statements credible in that regard.

Third, there is the question of conduct by Officer Cossette himself in the holding cell on May 2, 2010. As noted above, an Internal Affairs investigation was initiated after the video was brought to Sergeant Caponigro. He conducted that investigation, which included reviewing that video and conducting interviews of Officer Cossette and Officer Gibbs. Notwithstanding Officer Cossette's rendition of what he recalled occurring, which was confirmed by Officer Gibbs, that is that he saw Mr. Temich take a step towards Officer Cossette, Sergeant Caponigro detected no furtive movement by Mr. Temich in the video. He made the finding in his report, based upon repeated observation of the video, that Officer Cossette may have violated the use of force policy of the Meriden Police Department's rules and regulations, that is, the intentional, unnecessary or excessive use of force in effectuating an arrest, handling prisoners or in the performance and execution of other official duties.¹ Because Sergeant Caponigro reached the conclusion that there was excessive use of force, certainly in this instance it cannot be concluded that he was giving special treatment to Officer Cossette because he was the son of the Chief. In fact, it reflects that Sergeant Caponigro was not inclined to do so, but would investigate a complaint regardless of who the subject of the complaint was.

¹ While Officer Gibbs in his interview with Sergeant Caponigro during the Internal Affairs investigation indicated that he saw Mr. Temich make a furtive movement towards Officer Cossette, he subsequently in the interview with this investigator admitted that he was not truthful when he made that statement. He stated he made that statement because Officer Cossette had asked him to review the report before giving a statement to Internal Affairs and that he felt the pressure because Officer Cossette was the Chief's son, and therefore testified consistent with what was in the reports. He did not say that Officer Cossette or anyone else told him to lie. A separate Internal Affairs investigation was opened in regard to Officer Gibbs admitting that he was not truthful during the Internal Affairs investigation, which Internal Affairs investigation was investigated by the Meriden Police Department.

Complainants allege that special treatment was given to Officer Cossette because he was the Chief's son, and that the ultimate discipline that was handed down was not consistent with other discipline given to other officers in similar situations. Deputy Chief Topulos sustained the lesser charge of neglect of duty, performing assigned duties or other official work in a careless or negligent manner or in disregard of prescribed procedures or established practices, and issued a letter of written reprimand. Officer Cossette was also required to participate in four hours of use of force training. The complainants allege that this light punishment was given because of Officer Cossette's status as the son of the Chief of Police.

Deputy Chief Topulos was interviewed in regard to the process by which he ultimately decided upon the discipline to be imposed. Deputy Chief Topulos acknowledged that prior to the disciplinary hearing, he was inclined to impose more severe punishment when he first reviewed the video of the incident. However, upon further review, reflection and discussion with the director of personnel for the City of Meriden, it was determined that the conduct was not intentional, that is, from a review of the video that it did not appear that Officer Cossette was trying to harm Mr. Temich when he pushed him, but rather to get him away from the door and into the cell. That is a reasonable conclusion, though even if not intended to harm, the conduct was inappropriate. It is debatable whether or not the lesser charge of mishandling a prisoner was the best appropriate punishment, but under the circumstances not clearly an abuse of discretion. This is so based not only upon a review of the video but also Officer Cossette's reported disciplinary history at that time, as well as his reported acceptance of responsibility and stated willingness to address the issue. Deputy Chief Topulos states that this discipline was not in any way influenced by the fact that Officer Cossette was the son of the Chief of Police and I find his explanation credible. Moreover, he reports that there was no discussion in regard to the matter with Chief Cossette or any pressure to render any particular decision, which the Chief also confirmed, and which I also find credible under all circumstances.

That is not to say that I agree with the discipline that was imposed. While the push does not appear to be with the purpose of causing injury, it clearly was inappropriate under the

circumstances and did cause serious injury to Mr. Temich. Additionally, Officer Cossette's conduct, also on the video tape, after the fall was likely inappropriate. That is, he appeared to be more concerned with the appearances within the cell rather than appropriate medical treatment for Mr. Temich at the time, in that he moved him around, propped him up, and removed his handcuffs, all which he should have understood would be improper handling of an individual who may have just suffered a severe head trauma.

The Complainants also raise the issue as to whether or not Officer Cossette intentionally fabricated his report and subsequent testimony in regard to his perceptions as to Mr. Temich's movements while he was placing him in the cell. Under all of the circumstances, including Mr. Temich's purported violent and combative nature while he was being arrested at Putnam Street could support Officer Cossette's interpretation of various movements by Mr. Temich while he was being placed in the cell, even if all those movements were not captured on the camera. That is, as he is being led into the cell he is walking backwards, so at some point in time, before coming into the camera, he must have turned around or been turned around which, under the circumstances, could have possibly been interpreted by Officer Cossette as a threatening movement. Accordingly, I do not find that there is sufficient proof to show that Officer Cossette intentionally lied in regard to his statements in the report and during the investigation.

Robert Methvin / Cossette I.A. 10-51

The Complaint also makes allegations of excessive force by Officer Cossette and an improper investigation by Internal Affairs in regard to the arrest of Robert Methvin on October 5, 2010 at 3 Pasco Street in Meriden. The Complainants allege that Officer Cerejo had taken Mr. Methvin to the ground with little resistance and was in the process of applying handcuffs when Officer Cossette delivered a knee strike to the head/face of Mr. Methvin. They allege that the knee strike caused severe injury to Mr. Methvin which ultimately caused Mr. Methvin to be treated at MidState Medical Center. The Complainants also allege that Mr. Methvin filed an Internal Affairs complaint against Officer Cossette which was allegedly inadequately

investigated by Internal Affairs Sergeant Caponigro, again because Officer Cossette was the son of Chief Cossette. As part of this investigation, all relevant incident reports and Internal Affairs reports were reviewed in regard to this incident as well as interviews conducted of Officer Cerejo, Sergeant Caponigro and Officer Cossette. Mr. Methvin was also interviewed.

Officer Cerejo's report, which was confirmed in his interview, reflects that he was the first to arrive at the scene and encountered an intoxicated and combative Mr. Methvin. He reports that Mr. Methvin was yelling profanities at him and getting very close to him squaring off as if he were going to fight. It is noted that Mr. Methvin is a big man, approximately 6'3" tall. Officer Cerejo said he was also acting in an aggressive manner towards a neighbor. Mr. Methvin refused to give Officer Cerejo his identification when requested at first, but then gave it to him when Officer Cossette arrived. Officer Cerejo said that after giving him multiple warnings Mr. Methvin continued to yell and scream so he decided to place Mr. Methvin under arrest. He refused Officer Cerejo's directions to put his hands behind his back and because of his intoxication, his strength and aggressive posture and attitude, Officer Cerejo decided to take him down to the ground as soon as possible and handcuff him. He took him to the ground but Mr. Methvin continued to resist and he and Officer Cossette were struggling to get his arms behind his back. Eventually they handcuffed him. Officer Cerejo said that Mr. Methvin was not struck after he was placed in handcuffs, but only while they were struggling to cuff him.

As is noted in the Complaint, Officer Cossette's microphone was on throughout the incident, so there is audio of much of the interaction with Mr. Methvin. That audio confirms much of what is in Officer Cerejo's and Officer Cossette's report. That is, that there was quite a bit of argument and profanity by Mr. Methvin and a struggle while the officers attempted to put handcuffs on him. Under the circumstances, some use of force was appropriate in order to place Mr. Methvin under arrest and in handcuffs. While the recording does present Officer Cossette as joking in regard to the amount of blood that Mr. Methvin had lost because of his cut lip, it does not support a conclusion of unreasonable force or misrepresentations by Officer Cossette in his report. While Officer Cossette does make reference to there being quite a bit of blood, that is not

necessarily inconsistent with his explanation that the injuries were superficial in that it appears that the injuries included a cut lip which, while not a major injury, can lead to a lot of bleeding. To categorize a cut lip as a superficial injury is not a misrepresentation. Moreover, under the circumstances, use of force to place the handcuffs on Mr. Methvin was warranted, given his intoxicated state, his attitude and size. While Officer Cossette does say that the noise was his knee hitting Mr. Methvin, it is not clear that it indicates that he did a knee strike to Mr. Methvin's head. In his interview, he had indicated that as a part of the takedown he had put his knee onto the back of Mr. Methvin and it is believed that Mr. Methvin struck his lip on the concrete.

Moreover, the recordings from Officer Cossette's microphone, as well as dispatch, confirm other details in the report, including the call from Mr. Methvin's wife and dispatch's direction that Mr. Methvin had an extensive record with some indication of violence against police officers. Accordingly, Officer Cerejo and Officer Cossette were further justified in using swift, reasonable force in taking Mr. Methvin into custody.

In regard to the investigation, the points raised by the Complainants are not sufficient to reach a conclusion that the investigation was improper or inadequate because of the status of Officer Cossette as the Chief's son. Again, the reference to Mr. Methvin's injuries as being superficial is not clearly erroneous. The reports indicate that he suffered a cut lip and a bruised eye. The Complainants further note the comment by Sergeant Caponigro during his interview of Officer Cossette that "we are just going through the motions and make this one go away." This is not a totally accurate statement of the quote as I understand it. He does say we are just going through the motions but does not say they would make this one go away, rather that it would be handled quickly. I inquired extensively of Sergeant Caponigro in regard to that statement, and he did not indicate that meant there was a foregone conclusion in regard to the result prior to any investigation, but rather that based upon his review of the complaint and other material that the investigation should be concluded in short order. I conclude that while this statement was likely

poorly worded, it does not reflect an improper motive or procedure by Sergeant Caponigro with regard to his investigation and his ultimate conclusion which I believe to be a reasonable one.

The Complainants also allege that Mr. Methvin came to the Police Department on several occasions in order to follow up with his complaint, and he was ignored by internal affairs. I interviewed the officer working desk duty at the time, Officer Glen Felton, who recalls Mr. Methvin coming to the entry on one occasion and wanting to file a complaint and recalling that he placed a call to Internal Affairs. He got a hold of Sergeant Caponigro in Internal Affairs who said that he did not have an appointment and that he needed to make an appointment. Officer Felton offered to give Mr. Methvin a complaint form, which he said he had already filled out. Officer Felton indicated that he saw Mr. Methvin in the entry on one other occasion, but they did not speak but just nodded his head acknowledging his presence at that time. He does not recall seeing him after that occasion. Officer Felton does not know if Mr. Methvin made a request to Internal Affairs through anyone else. Sergeant Caponigro indicated that he had sent a follow-up form by mail to Mr. Methvin which was not returned. Because of his lack of contact with Mr. Methvin he closed the investigation in part because of no follow-up by the complainant. That letter to Mr. Methvin is in the file. Mr. Methvin states he never received it. Mr. Methvin claims that after he did not hear anything for a couple of weeks, he dropped the complaint until he saw an article about Officer Cossette in the newspaper at which time he contacted Attorney Sally Roberts.

Based on these statements and documents regarding the follow-up with Mr. Methvin, I conclude that it was consistent with department practice in regard to following up with complainants, that is, by letter. This is an area within Internal Affairs that can be improved, requiring some telephone contact as a follow up to a complaint or at the very least a certified letter to indicate that an individual had received the follow up from the Police Department prior to closing a file for lack of response from the complainant.

Joseph Bryans – Cossette I.A. 11-03

The Complainants also note allegations of excessive force in regard to the arrest of Joseph Bryans on January 23, 2011. The complainants make no specific allegations in their Complaint in regard to this incident other than a reference to the incident report and Internal Affairs complaint filed by Mr. Bryans.

As part of this investigation, all incident reports, and the Internal Affairs investigation, were reviewed in regard to these allegations, as well as interviews being conducted of Officers Mark Nowak and Evan Cossette, and MidState Medical Center security guards Phil Costanzo and Cory Wilson. Joseph Bryans was interviewed as well. MidState Medical Center video recordings from within the emergency room and of the outside parking lot were also reviewed.

Mr. Bryans filed a written internal affairs complaint wherein he alleges that he was at MidState Medical Center on January 23, 2011 early in the morning for treatment of a slash on his left thumb. He asserts that after not being seen for 45 minutes, he left the emergency room to have a cigarette and was walking parallel to the hospital building when a police cruiser pulled up in front of him. He remembered hearing stop and then was face down on the dirt with two officers handcuffing him. After being apprehended, he was tased on his right back side in the ribs three times or more. Other than hearing stop he was unaware of any reason why he would have been taken to the ground by the officers.

In his interview Mr. Bryans indicated that it was a very cold evening. He said that as he left the ER that the nurse told him that he can't go outside but that he did not respond and that he was walking away from the building because he was not supposed to smoke near it. He said he continued to walk away when the officers grabbed his wrists and took him to the ground. In his interview he said he was a few hundred feet from the ER door, that he was approached by Officer Cossette in the squad car who told him to stop and that he continued to walk. He was then grabbed by both Officers Cossette and Nowak. Mr. Bryans indicated that after he was

grabbed and put to the ground that the officers grabbed him by the wrists and tried to handcuff him, but he pulled his hand away and asked what he had one wrong. He got his hand free from Officer Wagner. He states that once he was thrown to the ground, he was using his left hand to keep his face off the ground, placing his hand to keep his face off the ground. He states that the officers were yelling at him to stop resisting, but from his perspective he was not resisting or fighting back, though he admits perhaps being a little resistant because he did not know what he had done wrong. He reports that Officer Cossette started punching him in the rib cage and then they got a hold of his hand and put him in cuffs. He states that immediately after he was punched he was tased, after Officer Nowak got up off of him. He says that he does not know whether he was kneeling or standing when he was tased, but asked Officer Nowak "why is he tasing me." He states in his interview he believes he was tased two times. After he recovered from the tasing, he admits that he started shouting and swearing at Officer Cossette because of him being handled the way he was, including being tased.

The officers in their incident reports and in their interviews with Sergeant Caponigro report that the nursing supervisor had asked the officer to bring Mr. Bryans back because he needed to be treated and was highly intoxicated. They noted that it was very cold outside. They indicated that they arrived at the location and told Mr. Bryans to stop but he continued to walk. Officer Cossette drove his police car to where Mr. Bryans was walking which was 150 to 200 yards from the emergency room door. He reports that he told Mr. Bryans to stop, that he refused the command and when he grabbed his wrist, Mr. Bryans took what he believed to be a fighting posture. Officer Nowak also indicates that he arrived and grabbed Mr. Bryans by the wrist and that they took him to the ground, and that he resisted their efforts to put handcuffs on him. After struggling for some time, and striking Mr. Bryans without success in order to handcuff him, Officer Cossette says that he used his taser in contact mode. He applied the taser two times, at which point they were able to put Mr. Bryans in handcuffs. They report he was struggling at the time he was tased, and then was handcuffed. The officers' interviews with me during this investigation were consistent with their statements to Sergeant Caponigro.

The interviews with the security officers at the hospital were consistent with the officers' rendition of what had happened on the evening in question. Further, a review of the video of the incident is not inconsistent with the officers' rendition. While on the video the events occur relatively quickly once Officer Cossette pulled up his police car near Mr. Bryans, there is sufficient time for Officer Cossette and Officer Nowak to direct that Mr. Bryans stop, for him to ignore that advice, and to be in such a posture that the officers believed he would be combative. It is difficult to see all that in the video. The video is consistent with the officers' version that Mr. Bryans was walking away from the building and was approximately 150 yards from the building when encountered by the officers. He is clearly not parallel to the building and only a couple hundred feet away as Mr. Bryans has asserted. While it is difficult to see all activity, because of the distance from the camera where the encounter occurs, what can be seen is not inconsistent with the officers' version, in that they state that they were striking Mr. Bryans in order to handcuff him, and when unsuccessful, Officer Cossette indicates that he deployed his taser. It does not appear that several seconds passed before deployment of the taser, and it appears that the taser must have been deployed while Mr. Bryans was on the ground, as opposed to standing or in the kneeling position as he stated in his interview.

Upon consideration of the reports, interviews and the video evidence, it is determined that the use of force by the officers here in taking Mr. Bryans down, attempting to handcuff him, and using a taser when they were having difficult handcuffing him, was not unreasonable force, and necessary under the circumstances. The security officers stated that the hospital cannot let a patient walk out of the hospital in an intoxicated state and on a cold evening such as the date in question, as he would present a danger to himself. The security officers also indicated by their observations of Mr. Bryans and his reported activity of that day that he did appear to be intoxicated. Under the circumstances, the use of force use appears to be justified, and Sergeant Caponigro's conclusion not unreasonable.

Allegations of Unreported Excessive Force by Officer Evan Cossette

Tackle of female while working with Officer Fry / Case # 01-06-008978

The Complainants allege that Officer Cossette, while a PST working in a civil capacity, was riding with Officer Christopher Fry. They allege that during that time they encountered a female who had an outstanding warrant, who was not dangerous and fled from Officer Fry. The Complainants allege when she ran from Officer Fry that Officer Cossette improperly exited the police vehicle, pursued the female and tackled her and subsequently broke her arm. The Complainants note that there is no Internal Affairs investigation in regard to this alleged incident. During his interview, Officer Huston indicated that he learned of this incident at some point overhearing a conversation in regard to it by Officer Fry.

Officer Christopher Fry was interviewed as part of this investigation and denied the allegations as reported by the Complainants. He reported that at the time Officer Cossette was an explorer as opposed to a PST, he states that he, Officer Fry, had reported to the location on a report of someone fleeing from an accident on foot. He saw the suspect enter the house at 152 Oak Street and walk through the house. He saw Officer Cossette run to the side of the residence. He followed Officer Cossette and that when he came upon Officer Cossette and the female, neither of them was on the ground nor does he recall Officer Cossette having his hands on the suspect. He states that when he started to handcuff her she complained of pain in her arm which she said was a result of a car accident. I visited the location of the incident and saw that where the suspect was apprehended was at the side of the yard as opposed to the rear, and was consistent with Officer Fry's report that it was a matter of seconds from when he saw the female enter the house and when he came upon her standing near Officer Cossette. Officer Fry reports that the subject was never complaining of being tackled or mishandled. Officer Fry said he had no indication that there had been any use of force by Officer Cossette in regard to this incident. He reported that he was never pressured to fail to report this incident or modify his view of the

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incident by anyone within the department. He said he did not fail to report the incident because there was nothing to report. Officer Fry said that he would have no issue or feel no pressure in regard to reporting Officer Evan Cossette if he viewed him doing something improper. Sergeant Caponigro and Sergeant Milslagle were questioned and indicated that they had never heard anything about this incident until reviewing the Complaint. At some point in time, Lieutenant Walerysiak obtained a statement from the female at York Correctional Institution. She signed a written statement that indicated that she broke her arm as a result of the car accident on the date in question when she was drunk and that she was never tackled or hurt by any police officer.

As a result of the interview of Officer Frye, a review of the location, an interview of Officer Cossette and, to some extent, the written statement by the female subject, it is concluded that the allegations as they pertain to this incident are not substantiated. Moreover, it is determined that given that the incident did not occur as described, there was no effort to subdue its being reported.

Meriden Mall Incident with Officer Richard Giamarco / Case # 01-09-003360

The Complainants allege that there was an incident with a youth while Officer Cossette was under the training of FTO Officer Richard Giamarco where they say Officer Giamarco described that "Officer Cossette went wild and started beating the youth and turned incident [sic] into a chaotic scene." They allege that Officer Cossette took a situation that was an infraction offense and caused it to become a had to use physical force event.

The investigation included a review of relevant police reports and interviews with Officers Giamarco, Wilkinson and Cossette. Review of the police reports indicate that this was an event that occurred on February 12, 2009 at the Westfield Shoppingtown in Meriden. Several individuals were placed under arrest as a result of three youths who had been directed to leave the shopping plaza because of a suspicious package that was believed to be a bomb, and who refused to leave. Officers Giamarco, Wilkinson and Cossette met those three individuals and told

them that they were ordered to leave mall property. Approximately 30 minutes later, Officers Giamarco and Cossette came back upon the three individuals and directed them to leave mall property immediately or face arrest. The individuals did not follow the directions and refused to leave the property. Officer Giamarco then advised one of the individuals that he was under arrest and attempted to take him into custody. The individual then reportedly pushed Officer Giamarco and Officer Cossette indicates he struck the youth in the facial area which incapacitated him and he then kneeled on him while Officer Giamarco applied handcuffs. Then reportedly a blue vehicle occupied by three females arrived at the scene and its occupants started yelling at the officers. Officer Cossette then ordered the individuals back into the car, whose occupants then continued to shout at the officers. Officer Cossette then approached the vehicle and ordered one of the individuals out of the car because he was going to be arrested. That individual refused and the doors of the vehicle were locked. Officer Wilkinson then told the driver that if she did not open the doors the window would be smashed out. The driver eventually complied. Officer Cossette then opened the door and told one of the individuals that he was under arrest and directed him to exit the vehicle. Officer Cossette then unsuccessfully attempted to pull the individual from the vehicle, as another occupant was holding on to the suspect and preventing him from being taken from the car. The individual was advised that he was under arrest and then Officer Wilkinson used his OC spray against the individual holding the other and she subsequently released him. Both individuals were then placed under arrest -- the occupant of the vehicle for interfering with an officer.

Officer Giamarco was interviewed and confirmed the rendition of facts set forth in the police report. He reported that he did take issue with Officer Cossette leaving him while he was placing the first individual under arrest and engaging with the other individuals in the car because it placed him, Officer Giamarco, in a difficult and perhaps dangerous situation. Officer Giamarco confirmed that the individual he placed under arrest had pushed him, and that in his view Officer Cossette striking him in order to take him into custody was warranted. Officer Giamarco indicated that as Officer Cossette's FTO officer he had counseled him in regard to his

leaving him during the arrest of the first individual, but that he saw nothing improper with his use of force in order to take that individual into custody after he had pushed Officer Giamarco.

Officer Wilkinson was also interviewed, and confirmed the facts as set forth in the report in regard to taking the other individuals into custody from the blue vehicle that had arrived on the scene. That is, he confirmed that he had directed the individual to unlock the doors to the car, and that when another individual in the car would not release that suspect, he had OC sprayed that individual. Both Officers Giamarco and Wilkinson indicated that there were several witnesses present during the altercation, including security officers and the public.

Officer Giamarco believes that the women in the vehicle indicated that they were intending to file a complaint in regard to the incident, but to his knowledge no complaint had been filed. A review of the Internal Affairs files indicated that there was no complaint that had been filed in regard to the incident. Sergeant Caponigro and Sergeant Milsagle were questioned and indicated that they had never heard anything about this incident until reviewing the Complaint.

Based upon the interviews of Officers Giamarco and Wilkinson, and the absence of any filed complaint by any of the individuals arrested in the incident, the Complaints' allegations in regard to this incident are not sustained. Significantly, the specific conduct complained of by them, that is the striking of one individual placed under arrest and the reported escalation of a minor incident, is not borne out by the interview of Officer Giamarco, whose statements were credible and confirmed by Officer Wilkinson and Officer Cossette. Moreover, Officer Giamarco was credible because he took issue with certain of the actions by Officer Cossette in the incident, but not as it relates to the use of excessive force because he believes the force used was appropriate under the circumstances. As described, it appears to be so. Additionally, the incident report includes two written statements by citizen witnesses who confirm the rendition of facts that are contained in the report. Again, contrary to the allegations of the complaints, there

is no record of Internal Affairs complaint being filed against Officer Cossette in regard to this incident.

Incident on Summer Street with Officer David Buck / Case # 01-10-009738

The Complainants allege that Officer David Buck had described to them in an off duty conversation an incident that occurred on Summer Street where Officer Cossette had struck with his baton an individual who had been taken into custody and was kneeling with his hands handcuffed behind his back. They allege that the officers on scene, Officer Buck and Officer Pierce, had witnessed the assault but were afraid to come forward to report the Chief's son for excessive force because they were fearful and knew how vindictive the Chief could be.

The off-duty conversation that is described by the Complainants (and in the next incident reported below) were part of an off-duty conversation that complainant Officer Sullivan had recorded in the MPD locker room. I have listened to that recording which was provided to me by counsel for the Complainants. In it, Officer Buck describes the incident and reports that Officer Cossette struck the suspect with his baton and in response to the question as to whether or not he was handcuffed he reports "I think he was, yeah."

Officer Buck was interviewed in regard to the incident, which according to the incident reports reviewed occurred on Summer Street on April 24, 2010. Officer Buck recalled having a conversation with the Complainants in regard to the incident, but was not aware that he was being recorded. He was upset that he was recorded by Officer Sullivan without his knowledge. He had not heard the recording.

As to the incident, Officer Buck indicated that he had responded to a call for assistance in regard to a dispute that was occurring in the Summer Street area. He reports in his interview that he and Officer Pierce were in the process of taking the individual into custody, that is, he was on the ground and they were attempting to put handcuffs on him, when Officer Cossette arrived and

gave the individual a quick couple jabs with his baton. When Officer Cossette arrived Officer Buck said that there was passive resistance ongoing by the individual they were attempting to take into custody. He said the individual did not complain of any injury as a result of the jabs. Officer Buck said that he told Officer Cossette that he was not needed in regard to taking this individual into custody and suggested that he might be needed elsewhere as there were other officers calling for help. Officer Buck said that there was some ongoing resistance by the individual on the ground and he "did not know what Officer Cossette perceived the situation to be." Officer Buck said that he did not believe that the jabs with the baton under the circumstances were excessive. Officer Buck did not report the incident to anyone, as he was not required to, as he did not believe it was excessive. Officer Buck said he did not believe that this was an extraordinary incident. Officer Buck went on to report that he had never seen Officer Cossette use excessive force nor had he ever had to report anyone for the use of such force.

As it relates to his conversation where he was recorded by Officer Sullivan, he believes that to the extent it is inconsistent with what he now reports occurred, that he was exaggerating, as part of typical locker room banter. Officer Buck indicated that he was not fearful to report any excessive force, including any excessive force by Officer Cossette, the Chief's son, if he had observed it. He states that the use of the baton was a jab, not an all out hit, and that the individual he was taking into custody was not handcuffed when Officer Cossette jabbed him with the baton.

Officer Jennifer Pierce was also interviewed in regard to this incident and her account of the event is consistent with what was reported by Officer Buck. She reports that the individual being taken into custody asked "why are you hitting me" and she turned around and saw Officer Cossette standing there with his baton out. She cannot recall whether or not the individual was in handcuffs at the time he asked why are you hitting me. She did not see Officer Cossette strike the individual as her back was to him but there was a brief period of time when he could not have struck more than twice. She did not believe that it was a big deal because the individual was resisting and not giving up his arms to be handcuffed and under the circumstances can be struck.

Officer Pierce also said that she was not influenced as to whether or not to report the incident as a result of Officer Cossette being the Chief's son. She did not consider bringing it up because she did not believe that what she had observed or heard amounted to an improper use of force. Officer Pierce said her only reaction was annoyance as she believed that she and Officer Buck had the situation under control and there was no need for Officer Cossette to become involved. Sergeant Caponigro and Sergeant Milslagle were questioned and indicated that they had never heard anything about this incident until reviewing the Complaint.

Upon review of the reports and the interviews of Officer Buck and Officer Pierce, the incident on Summer Street does not appear to involve any excessive force by Officer Cossette under the circumstances. To the extent Officer Buck would indicate otherwise in the conversation where he was recorded, he admits that he was exaggerating, and in the statement indicates that he is unsure as to whether or not the individual was handcuffed.

Incident on Curtis Street With Officer Michael Ford / Case #01-10-015075

The Complainants allege that they were advised of an incident involving Officer Cossette, as reported by Officer Ford, where Officer Ford and Detective Wagner had a suspect on the ground and were in the process of handcuffing him when Officer Cossette expanded his asp and attempted to strike the suspect in the head. Complainants report that Officer Ford stated that he feared that Officer Cossette would seriously injure the suspect or Officer Ford and that he raised his arm and blocked the shot. This incident also refers to the locker room discussion that was recorded by Officer Brian Sullivan between Officers Ford, Buck and Sullivan. That recorded conversation has been reviewed and it is consistent with the conversation as reported by the Complainants.

Officer Michael Ford was interviewed in regard to the incident that occurred on Curtis Street on September 5, 2010. Officer Ford confirmed that he, Detective Wagner and Officer Cossette were in a foot pursuit of a suspect in a bank robbery. He confirmed that the suspect

stumbled and fell to the ground and that he was in the process of attempting to take him into custody. He then observed Officer Cossette and saw that he had deployed his asp. He did not see Officer Cossette swing the asp but saw that it was deployed. He believed at the time that the use of the asp and deployment of the asp was inappropriate and directed Officer Cossette to "get that out of here." He confirmed that he spoke to Officer Cossette afterward and explained that he should not have under the circumstances deployed his asp and that Officer Cossette understood his position once it was explained to him. Officer Ford indicated that he never reported the deployment of the asp to anyone because he did not believe that it was necessary, as there was not a use of force. He believes that he had handled the incident the way it should have been handled. Officer Ford reports that his recorded statement in the locker room was locker room banter, where often reports by officers are exaggerated. He disagreed that he had any fear to report any inappropriate incidents that should be reported from fear of Chief Cossette, including this incident involving Officer Cossette, his son. Sergeant Caponigro and Sergeant Milslagle were questioned and indicated that they had never heard anything about this incident until reviewing the Complaint.

Under the circumstances and after interviews of Officer Ford and Officer Cossette, it is concluded that there was not an inappropriate use of force in this instance, and in fact, no use of force whatsoever. Officer Ford believes that Officer Cossette inappropriately deployed his asp and took appropriate action in counseling him in regard to his view as to whether or not that was proper. No further reporting was necessary.

Allegations of Disparate Treatment

Complainant Officer Brian Sullivan – I.A. 10-53

Complainant Brian Sullivan alleges disparate treatment of him by the Meriden Police Department based upon the consequences of his arrest for driving under the influence and subsequent I.A. investigation finding that he had violated Meriden Police Department rule and

regulation Section 1, General 1.1, a violation which brings discredit upon the department. His arrest arose from him being stopped by a Connecticut state trooper on October 24, 2010 and recording blood alcohol content (BAC) in two tests of .181 and .186, well in excess of the legal limit of .08. Officer Sullivan did not dispute the two tests and ultimately partook in the alcohol program which, after successful completion, the charges would be dismissed. Ultimately, Officer Sullivan entered into a stipulated agreement with the City of Meriden on December 1, 2010 agreeing to certain discipline.

The nature of Officer Sullivan's complaint is that others within the Department have not suffered similar circumstances when they engage in "acts which bring discredit upon the Department." In particular, Officer Sullivan notes several other Meriden police officers who had been arrested for domestic violence but had not been disciplined immediately or at all, or had not been disciplined until after several such arrests. He believes that his being suspended and immediately suspended because of his arrest while others did not suffer those consequences for domestic violence arrests is disparate treatment. Moreover, Officer Sullivan alleges disparate treatment because he was threatened with termination of his employment because of the City of Meriden advising that because of his driving under the influence arrest he was no longer insurable under the City's insurance policy, and thus could no longer serve as a police officer within the Department. Officer Sullivan claims this is disparate treatment because there are several other officers whom he claims are also uninsurable under the City's insurance policy because of their breaching another condition of insurability in the policy, that is because certain other officers had three or more accidents, regardless of fault, within the last three years. He does not identify any officer who is uninsurable because of the existence of an arrest for driving under the influence.

As to the first ground for his claim of disparate treatment, I conclude that it not an example of disparate treatment because the nature of the arrests and allegations as between the domestic violence arrests he cites and his driving under the influence arrest, supported by two excessive BAC readings, are dissimilar. That is, the Department takes the view that the fact

alone of a domestic violence arrest, in and of itself, is not sufficient basis for an immediate Internal Affairs investigation because the specific allegations must be taken into consideration and are often not verifiable. That is, often the allegations are such that the officer and his or her domestic partner disagree in regard to the nature of the dispute. Further, often those domestic violence arrests are disposed of prior to their being any finding or admission of a violation. I have reviewed the domestic violence arrests noted in the complainant's complaint and find that they are sufficiently distinguishable from Officer Sullivan's arrest for DUI and his testing at the BAC levels at which he was tested. He did not dispute the accuracy of the BAC readings. Moreover, the consequences of a police officer being arrested for driving under the influence, and the perception by the public in regard to such an arrest, is something that warrants an investigation, and discipline if the facts supporting the arrest are sufficiently verified and not disputed as in this instance.

That is not to say that domestic violence arrests may not amount to very serious crimes. It is understood that those arrests are reviewed by the Department, and handled accordingly based upon the allegations, admissions, and any other charges that may be brought as a part of the arrest. Moreover, my review of various files does indicate that, as with other discipline, the disciplinary history of an officer, including whether or not there were other domestic violence arrests, is considered and an important factor in determining a course of action. Under all of these circumstances, the treatment of Officer Sullivan for his DUI arrest, the commencing of an Internal Affairs investigation and the ultimate finding that was reached, does not amount to improper disparate treatment.

As to Officer Sullivan's allegations about disparate treatment by the MPD on account of his being threatened with termination because of his uninsurability, the record reflects that in fact the Department, in the person of Chief Cossette, vigorously argued on behalf of Officer Sullivan that such a consequence not be reached. It was the City's risk manager who acted on the information of Officer Sullivan's arrest and advised the insurance company which advised the City of Officer Sullivan's uninsurability. Chief Cossette, in various correspondence, including

an e-mail and letter of November 9, 2010, vigorously argued for Officer Sullivan's continued employment, arguing against the insurance company in regard to their determination in regard to insurability. Chief Cossette also interceded on Officer Sullivan's behalf to help him get his operators permit. Moreover, the DUI arrest and the three accidents within the three year period provisions appear to be treated differently by the insurance company and the City. Again, the finding in regard to uninsurability of Officer Sullivan was a conclusion that was pressed by the insurance company and which the City was able to overturn in large part upon the insistence of the Chief of Police. It is not clear whether or not the insurance company is aware of any other situation where other insurability provisions have not been met, and I have not been advised that there has ever been a demand for such information. In these circumstances, there is no disparate treatment as against Officer Sullivan by the Meriden Police Department or the Chief of Police in regard to these issues.

It should be noted that at the time of Officer Sullivan's arrest for DUI there was not a DUI policy between the MPD and the union. Subsequently, on December 9, 2010, a policy was agreed to with the union which provides for an automatic suspension of 30 days for a DUI arrest first offense and loss of license by an officer, among other provisions.

Complainant Donald Huston – I.A. Complaint 10-57 Meriden Square Mall

The Complainants also allege as disparate treatment, the discipline that was given to Officer Huston by Chief Cossette in regard to an Internal Affairs investigation that arose from an incident at the Meriden Square Mall on November 6, 2010 involving the arrest of five people. The investigation was commenced by Deputy Chief Topulos after review of a video at the scene where an individual was being taken into custody and during which Officer Huston entered the frame and is observed giving two kicks to an individual who was on the ground struggling with three police officers. An Internal Affairs investigation was conducted by Sergeant Caponigro and completed on November 30, 2010. He concluded that the two kicks delivered by Officer Huston were not excessive, as even after the two kicks the suspect continued to struggle. As part

of that investigation, he also reviewed the arrest reports prepared for the incident by Officer Huston and concluded that the report was insufficient as it did not show probable cause for the arrest of at least two of the arrestees. On account of this finding, Sergeant Caponigro concluded that he had violated Meriden Police Department rules and regulations and that he had performed his duties other official work in a careless or negligent manner. As a result, the charge was scheduled for a disciplinary hearing in the Chief's office for December 13, 2010. On the same date, a hearing was also held in regard to another Internal Affairs investigation involving Officer Huston, I.A. 10-48, where a complaint was made that he used excessive force with a person in a holding cell and, after an investigation, Sergeant Caponigro had concluded that the use of force was justified.

As part of reviewing this incident, I reviewed all incident reports and internal investigation reports, including the video of the incident at the Meriden Square Mall where Officer Huston delivered the two kicks to the suspect. I also interviewed Officer Huston and Deputy Chief Topulos and Chief Cossette in regard to the incident and discipline ultimately administered. After the disciplinary hearing on December 13, 2010, Chief Cossette sustained the charges of performing work in a careless and negligent manner in regard to the arrest report and also the charge of excessive force in regard to the kicks administered at the Meriden Square Mall, in regard to Internal Affairs investigation 10-57. The discipline administered was a suspension for a period of five days and direction to obtain counseling regarding anger management. It is this discipline that the complainants, Officers Sullivan and Huston, claim is disparate as it relates to the discipline that had been applied to Officer Cossette in regard to his Internal Affairs investigations, particularly the Temich incident. Ultimately, on November 15, 2011, Officer Huston and the City entered into a Settlement Agreement whereby it was agreed that the basis for suspension was changed from excessive force and performing duties in a careless or negligent manner, to conduct unbecoming an officer and performing duties in a careless or negligent manner, and the five day suspension reduced to a two day suspension.

There does not appear to be any dispute in regard to the facts regarding the two leg kicks to the head area of the suspect at Meriden Square Mall, as it is depicted in the video. There is dispute in regard to the intentions of the kicks, that is, whether or not to assist in getting the suspect under control or merely to injure or cause pain. Ultimately, the Chief, with the concurrence of Deputy Chief Topulos, believed that the conduct was sufficiently significant for an excessive force violation they believed the kicking of someone to the head area is an extreme use of force that is only justified in extenuating circumstances. Here, they view that it was not necessary to effectuate the arrest of the suspect, as three officers were hands on with the suspect. The Chief's conclusion and the ultimate rendering of discipline was also reportedly impacted by Officer Huston's failure to accept responsibility for the event and his blaming the incident on his lack of training as a reason that he kicked the suspect even though he was under control.

Upon reviewing all the evidence and considering the statements of Chief Cossette, Deputy Chief Topulos, Sergeant Caponigro and Officer Huston under all the circumstances, the findings after the hearing, and the discipline that was imposed does not appear to be unreasonable or an abuse of discretion and supportable as a reasonable use of progressive discipline in regard to Officer Huston. It is true that the conclusion, and discipline given to Officer Huston, is significantly greater than that assigned to Officer Cossette in the Temich matter. This distinction is explained by Deputy Chief Topulos as a result of his conclusion as to the lack of intent to injure in the Officer Cossette case and his acceptance of responsibility and willingness to consider alternative action in the future. He believes both these factors were not present in the Officer Huston I.A.

Complainant Donald Huston –I.A. Complaint 11-13 Tardiness and Untruthfulness

Complainant Donald Huston has alleged that the filing of an internal affairs complaint alleging that he had been late for a private duty assignment, and that he had been untruthful in responding to an inquiry regarding that tardiness, was an example of the vindictive nature of

Chief Cossette, and his retaliation for the Complainants making various allegations against Chief and others in the MPD.

As a part of consideration of this allegation, I reviewed what documents there were relating to the claim and interviewed Sergeant Caponigro in regard to the internal affairs investigation. Sergeant Caponigro indicated that there was a department wide effort by Internal Affairs sergeants to perform daily inspections of supervisors and officers working in private duty assignments throughout the city, because there had been several complaints that private duty officers had not been attentive to their duties. Those inspections were also to make sure that private duty officers were on time and had proper required equipment, as tardiness had been a complaint from contractors paying for those private duty services.

Sergeant Caponigro indicated that on March 29, 2011 he was doing such an inspection as requested and when he inspected a private duty location at 170 Britannia Street he observed Officer Huston arriving at the job at 7:45, after the given starting time of 7:30. Sergeant Caponigro requested that Officer Huston provide a written report explaining why he was late. Sergeant Caponigro's review of that report indicated that there were possible untruthful statements in that report.

While a review of the report indicates that there was a general inspection ongoing in regard to private duty jobs, and that the review of the explanation given by Officer Huston in regard to his being late may have been inaccurate, it did appear that excessive amount of effort was being attended to the investigation of this incident. However, I was provided documents relating to other tardiness warnings and the request for I.A. investigations against another officer under similar circumstances. While it was not necessarily improper or targeted enforcement of the policy, in light of the allegations made by Officer Huston it did raise the question of whether or not there was some retaliation involved by management at the department on account of those allegations. I understand that subsequently the Internal Affairs investigation was closed without action. Under the circumstances, however, I do not believe it supports the claim of pervasive

and improper targeting of individuals and disparate treatment relating thereto throughout the department.

Complainant Donald Huston Allegations of Retaliatory Internal Affairs Investigation /
I.A. 11-75

Subsequent to the filing of the Complaint, and during the pendency of this investigation, Officer Huston advised me that he believed that there had been an unfair investigation involving I.A. investigation 11-75 conducted by Lieutenant Mark Walerysiak. Officer Huston's concern related to Lieutenant Walerysiak not including within his report of investigation information that was exculpatory as to the allegations against Officer Huston. The I.A. investigation involves a complaint that Officer Huston violated rules and regulations relating to neglect of duty in that he allegedly failed to investigate the operator of a motor vehicle for driving under the influence, when according to another MPD officer at the scene there were circumstances that led her to believe that the operator was drunk, and that she had communicated those concerns to Officer Huston. Lieutenant Walerysiak investigated the complaint, and after listing his consideration of several factors, determined that the preponderance of evidence supported that Officer Huston may have committed the violation in failing to investigate the operator's possible intoxication.

One of the factors that Lieutenant Walerysiak relied upon was the other officer's report that the operator's spouse had arrived at the scene and accused him of being drunk. As part of his own investigation of the incident, Officer Huston spoke to the wife of the operator, who indicated she had spoken to another officer (Lieutenant Walerysiak) who had inquired about the incident, and told him that she did not say that her husband was drunk or accuse him of being drunk on the date of the incident, contrary to the assertion of the other Meriden police officer. Lieutenant Walerysiak did not include the fact that he had had that conversation with the wife of the operator within his report, though he admitted at Officer Huston's disciplinary hearing that he did have that conversation and the operator's wife did say that she did not make the statements attributed to her by the other officer. Lieutenant Walerysiak states he now

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understands that he should have included that interview in his report as it was relevant exculpatory information. He explains, however, that in light of all the circumstances he did not include it in his report at the time because he believed it to be of little evidentiary value. Again, he now admits that he was wrong.

Officer Huston has made a complaint in regard to Lieutenant Walerysiak's failure to include that statement to the Chief of Police. Deputy Chief Topulos has responded to Officer Huston and advised that Lieutenant Walerysiak has agreed that he should have included the statement in the report, but that the weight of the evidence was not compelling and did not by itself influence the outcome of the matter, and that he therefore concluded that no further investigation was necessary. As it relates to the Internal Affairs investigation and the disciplinary hearing against Officer Huston, after the hearing it was determined that the charges against Officer Huston were not sustained. The exculpatory evidence not included within Lieutenant Walerysiak's report was referenced as evidence that was considered in the disciplinary hearing.

It is not disputed that Lieutenant Walerysiak should have included the exculpatory statement within his report. He admits this. The question to be determined is whether or not that was an intentional and wrongful exclusion, as part of an effort to improperly sustain charges against Officer Huston, or, because of the limited evidentiary value of the evidence, it was an honest mistake by Lieutenant Walerysiak. I find after reviewing all the reports, and interviewing Lieutenant Walerysiak and Officer Huston in regard to the matter, that it was an honest mistake and that there was no intent to exclude the material so as to wrongfully sustain charges against Officer Huston. Lieutenant Walerysiak has admitted his mistake, but indicates that there was no improper intent in regard to his error. Considering the totality of the circumstances, I credit his statement, and find that this is not an example of Lieutenant Walerysiak or MPD management retaliating against Officer Huston or treating him differently from any other officer undergoing a similar internal investigation.

Disparate Treatment Allegations Non-Complainant Related

PBA Bar Incident Involving Detective David Visconte and Officer Brian Wilkinson

The complainants allege that there was a fight at the Meriden PBA Bar which involved a physical altercation between Detective David Visconte and Officer Brian Wilkinson. They describe that the bartender dialed 911 and requested that “dispatch send a swat team because all the cops were fighting.” They further allege that this was a mandatory reporting event because Officer Wilkinson and Detective Visconte were residing together at the time and thus it qualified as a mandatory domestic violence incident.

I reviewed available material in regard to the allegations, as well as interviewed Detective Visconte and Officer Wilkinson in regard to the matter. Additionally, other officers were asked about the incident who had some familiarity with it or were present. Both Officer Wilkinson and Detective Visconte describe the dispute as an argument, where there was some shouting and posturing but that there was no actual physical fighting as a part of the incident. Further, they explained that Detective Visconte had only occasionally stayed at Officer Wilkinson’s residence on and off for a period of a month or so while he was having marital problems, but that he never lived there on a regular basis over an extended period of time, did not have mail sent there or move his possessions there. Further, I listened to dispatch tapes in regard to the incident and while the bartender at the PBA did call and report that there were officers fighting out on the deck, there was no request for a swat team. Further, other recordings relating to the incident indicate that it was not as serious a physical altercation among officers as is set forth in the Complainants’ Complaint.

Under the circumstances as described by Detective Visconte and Officer Wilkinson, it is highly unlikely that there would be any mandatory domestic violence reporting required by the incident. Because Detective Visconte only stayed at Officer Wilkinson’s on occasion, the statute would likely not apply and one would not expect any officers present at the time to believe that

there would be any mandatory reporting required by the incident. Moreover, as Visconte and Wilkinson describe it, it was not an actual physical fight, and this is confirmed by other officers that had been spoken to. Under the circumstances, it does not appear that any formal Internal Affairs investigation needed to be conducted in regard to this incident, and there was therefore nothing improper in regard to it, and therefore not an example of improper disparate treatment.

Investigation of the 2041 Club – Robert Green

Complainants allege that there was disparate treatment in the handling of suspected criminal conduct by Lieutenant Robert Green of the Meriden Police Department during the investigation of a prostitution ring at the 2041 Club in Meriden. The Complainants allege that while reviewing evidence seized from the 2041 Club, video tapes were discovered that demonstrated that Lieutenant Green was present in the Club while on duty and that he was observed drinking beverages. Notwithstanding those findings he was not relieved from duty or disciplined but instead that the information was disclosed to him several days later and he was “offered the opportunity to retire and it was all swept under the carpet.” They allege that this result is disparate treatment in that a patrolman would have been relieved from duty immediately under the circumstances and a criminal investigation would have been conducted. They go on to state that they were advised that there was no Internal Affairs investigation conducted or criminal investigation into Lieutenant Green’s conduct. They conclude, “Appalling to say the least.”

As part of considering these allegations, I reviewed what I understand to be all of the reports from the 2041 Club investigation, which is quite voluminous, and interviewed Detective John Williams and Deputy Chief Topulos in regard to the incident. My investigation concludes that the allegations of the Complainants as set forth in their submission are unfounded. That is, the video recordings on which Lieutenant Green was observed within the 2041 Club and from which it was determined that he was there while on duty, were seized after Lieutenant Green had retired from the Meriden Police Department and taken a position as a State Marshal. Lieutenant Green’s retirement date was effective January 18, 2009. The arrest and search warrants were

executed at the 2041 Club on January 20, 2009. Once he had retired from the MPD, it had no authority or jurisdiction to seek an Internal Affairs complaint against him. The documents and interviews reflect that upon discovery of the video tape seized from the Club with images of Lieutenant Green that the information was reported to the Chief of Police and a full scale investigation conducted. Later, during review of videos obtained during the search, it was discovered that Lieutenant Green was depicted in the Club in full Meriden Police uniform with two females. All the video reportedly showed is him drinking a beverage. It is not clear whether or not he was drinking alcohol. The criminal investigation continued as to the 2041 Club and in regard to Lieutenant Green. Members of the Crimes Suppression Unit watched extensive hours of videos of sexual activity for over a month to determine whether or not there was any further evidence against Lieutenant Green. He agreed to be interviewed by MPD in February of 2009. During that interview, Lieutenant Green admitted to frequenting the Club off duty and having sexual relations with women there, but states that he never paid for it nor did he do it while on duty. Based upon all evidence that could be gathered, the States Attorney's Office concluded that they did not have probable cause to arrest retired Lieutenant Green for any crimes because there was no physical evidence of criminal conduct and the one video located did not show necessarily illegal conduct.

Though not express in the Complainants' submission, there have been later allegations that an Internal Affairs investigation should have been conducted in regard to Lieutenant Green when his name was first discovered in some blogs relating to the 2041 Club referenced in a complaint letter concerning the Club received by MPD in December of 2008. Detective Williams explained that while there was the reference to Lieutenant Green in those blogs, members of the Crimes Suppression Unit did not believe that it related to his involvement in criminal conduct there but rather that he was present at the Club or parked at the Club which would not necessarily be illegal or improper conduct. Moreover, as part of a blog it was not sufficiently credible information to commence an investigation against him. In fact, members of the Crimes Suppression Unit, being aware that members of the Department may be in the location of the 2041 Club for not improper purposes, requested of Lieutenant Green and others

who worked that area to stay away from the location because of their conducting the investigation there. Clearly, the Crimes Suppression Unit would not have given that information to Lieutenant Green or anyone else if they believed that they were engaged in improper conduct. Notwithstanding Lieutenant Green ultimately being determined to have been present in the Club and admitting to the conduct with women there while off duty, he did not impair the investigation, which ultimately was very successful. Accordingly, I conclude that there was no requirement that the Crimes Suppression Unit initiate or request that an Internal Affairs investigation be commenced in regard to Lieutenant Green at the time they discovered the references to him in the blogs in or around December of 2008, but rather it was reasonable for them to decide to go forward with the investigation. Obviously, if they had initiated an Internal Affairs investigation of Lieutenant Green at that time, it would have seriously jeopardized their ability to go forward with a successful investigation of the 2041 Club as they did. Accordingly, I find that the Crimes Suppression Unit and its supervisors acted reasonably in regard to their dealing with the information they had at the time. Moreover, when they came upon evidence, videos of Lieutenant Green, that indicated that he may be involved in improper or illegal conduct, he had already retired so they could not commence an Internal Affairs investigation. They could and did initiate a criminal investigation after which ultimately they were unable to bring charges against him.

Brian Lawlor Allegations of Excessive Use of Force / I.A. 05-43

The Complainants cite as an example of MPD disparate treatment, the handling of the Internal Affairs investigation of Officer Brian Lawlor in 2005 and his subsequent criminal prosecution. They note that in the Lawlor matter there was no private complainant that commenced the investigation, that the suspect was not handcuffed, believed to have been involved in a carjacking and to have been armed, comparing and contrasting it to various Officer Cossette incidents under review. They report that Chief Cossette took a strong stance against Officer Lawlor and stated that he would not tolerate such actions by MPD officers. They assert that his position has changed in regard to the handling of his son Officer Evan Cossette's

conduct. They allege that Chief Cossette "targeted Lawlor and was on his personal mission to have him fired." The complainants further allege that Chief Cossette "shopped the warrant from GA to GA until he found a judge who would sign the warrant."

As part of consideration of these allegations, I reviewed the internal affairs documents and file related to the Brian Lawlor Internal Affairs investigation 05-43, which included reviewing the video of Officer Lawlor's treatment of the subject in that incident. In addition, I reviewed correspondence relating to the handling of the criminal case, as well as interviewed Chief Cossette.

That review led to my conclusion that the Brian Lawlor incident was not an improper investigation by Internal Affairs, nor a improper pursuit of criminal action. As to the latter, my review indicated that Chief Cossette did not "shop the matter from GA to GA," but rather, as reflected in correspondence dated December 7, 2000 from then Chief States Attorney Christopher Morano to New Haven States Attorney Michael Dearington, the Chief State's Attorney concurred that the investigation into the conduct of Officer Brian Lawlor was an appropriate case to be reassigned us to someone outside the judicial district of New Haven. Accordingly, Chief States Attorney Morano assigned the case to a prosecutor in the Chief State's Attorney's office. There is nothing improper in regard to that assignment, or the pursuit of a criminal investigation by Chief Cossette given the facts of the incident. It should be noted that that criminal investigation resulted in a conviction against Officer Lawlor.

Moreover, a review of the Internal Affairs file, in particular the video of the force used by Officer Lawlor against the subject in that incident, compels the conclusion that it was a very different incident from any of the allegations or incidents involving Officer Cossette that have been reviewed as part of this investigation. That review supports the conclusion by Sergeant Caponigro in the internal affairs investigation that "[i]t appears from the video that Officer Lawlor is intent on beating the suspect. Even after removing him from the vehicle, Officer Lawlor continues to punch and knee the suspect." The ultimate disposition of the criminal case

resulting in a conviction against Officer Lawlor further compels the conclusion that Chief Cossette's and MPD's pursuit of a criminal investigation and charges was appropriate. This does not appear to be disparate treatment when compared to the handling of matters related to Officer Cossette.

Outstanding Case Reports and Misplaced Evidence

The Complainants allege disparate treatment among various Meriden Police Department personnel in regard to how they were treated in various instances where they were found to have outstanding case reports or had misplaced evidence. One such incident involved Officer Eric Shean where the complainants alleged that he had several case reports and evidence left in his patrol vehicle and for which the complainants note that the Internal Affairs investigated the violation and he was suspended and given a last chance agreement for the violations. As part of this review, the I.A. file 10-04 regarding Officer Shean was reviewed and it was determined that the ultimate resolution of the case under the entirety of factors was a reasonable one in Officer Shean's instance, that is because of the outstanding reports and evidence that had been left within his patrol car. Without getting into the specifics of all of the concerns in that investigation, the agreement that was reached between the Police Department and Officer Shean under the circumstances was reasonable.

The complainants contrast that to the situation where Officer Giamarco had 16 outstanding cases and he was permitted to complete the cases. Those circumstances were very different from Officer Shean's overall situation and under the circumstances, the disposition of his issues was not unreasonable.

The complainants also note an incident where Sergeant Glen Milslagle was auditing firearms in the evidence room in 2010. It was determined that a particular firearm found was associated with an incident in 2005 when Officer John Mennone located an unresponsive male and found a small handgun in the individual's pocket. Because of the male having prior felony

charges he intended to submit an arrest warrant in the future. He subsequently forgot about the firearm and never submitted the charges for review.

Later during the summer of 2010 Sergeant Milslagle discovered the firearm as part of doing his audit of the evidence room. Sergeant Milslagle approached Sergeant Mennone and asked about the case and Sergeant Mennone admitted he'd forgotten about it and he therefore completed a supplemental report indicating that no further information had been received on the case and due to the time lapse he closed the case. Ultimately Sergeant Caponigro investigated the case after it was brought to the Chief's attention by the filing of Officers Huston and Sullivan Complaint. That Internal Affairs investigation, 11-18, concluded that Sergeant Mennone had violated Department rules in performing assigned duties in a careless and negligent manner.

A disciplinary hearing for Sergeant Mennone was held May 5, 2011 with Chief Cossette and Deputy Chief Topulos. Sergeant Mennone admitted his mistake in the incident, and because of the age of the case, it being over six years old, at the advice of the City personnel director, there was a letter sent indicating that the charges were sustained, however, there was no formal discipline administered because of the passing of time. In inquiring of the Chief, the Deputy Chief and Sergeant Caponigro, none of those individuals were aware of the violation until the filing of the April 2011 Complaint, and I find their statements credible. The handling of the matter, though obviously a serious violation, appears to be reasonable.

It should be noted that in regard to the Sergeant Mennone incident that there was a follow-up investigation in regard to Sergeant Milslagle, I.A. 11-35, wherein Sergeant Caponigro was assigned to investigate whether Sergeant Milslagle may have violated policy by not advising management of the discovery of the firearm in 2010 that was seized in 2006. Sergeant Caponigro's conclusions on questioning Sergeant Milslagle in that regard were that he was unaware of the specifics involving the firearm and whether or not there were potential charges, as he had only asked Sergeant Mennone whether or not the firearm could not be destroyed. My interview of Sergeant Milslagle and Sergeant Mennone was consistent with that conclusion.

Under the circumstances, Sergeant Milslagle could have asked more questions in regard to disposition of the firearm, but that the failure to do so was not a violation of Department policy. I agree that the failure to do so was not a violation of Department policy.

Alleged Disparate Treatment Involving Motor Vehicle Operation

The complainants in their submission note a number of instances where they claim various individuals were treated differently in regard to motor vehicle violations, such as speeding or accidents, depending upon who the individual was who was involved in the incident. They allege that the decision as to whether an investigation would be conducted, and the results of that investigation, and any resulting discipline depended on who the officer was and whether or not they were friendly with management within the department. I have reviewed each of those incidents carefully and the decision on whether or not to investigate and the ultimate discipline if there was an investigation do not reflect an abuse of discretion in any instance. Once the files and the disciplinary history of the various officers were considered, each individual decision was reasonable. Factors considered included whether or not individuals had other driving or disciplinary incidents, and the specific facts involving each violation.

- Officer Jon Femia: I.A. investigation conducted where officer placed himself out of service at another call and then responded to a call without advising dispatch and involved in an accident. Investigation commenced for accident but also for failure to keep dispatch apprised of location.
- Detective David Visconte: operating unmarked narcotics car with Detective Sergeant Pekarul in the passenger seat; responding to a call on radio and had a collision when passing people on the right hand side. Sergeant Pekarul reported that driving was not inappropriate and no serious injuries sustained; therefore no investigation.

- Officer Papotta: accident investigated because struck another car, and was cited for unsafe backing; received only a documented counseling session.
- Officer Jennifer Pierce: investigated and received a five day suspension in part relating to the speeding incident recounted in the Complainants' submission, but discipline also included other incidents, and injuries sustained. I.A. 08-40 and I.A. 08-41.
- Officer Robbii Abouchachra: undisputed matter that he was speeding as indicated by his car camera and he agreed that it was unnecessary. His discipline, one day held in abeyance, which the complainants seem to believe was too light in comparison to others was justified because it was his first offense and due to his acceptance of responsibility for the matter.
- Officer Evan Cossette: The complainants reference three separate occasions where Evan Cossette's car camera was reviewed for excessive speed. Interviews with Officer Cossette and Sergeant Herget identified only two such incidents. It was confirmed with Sergeant Herget that he did discipline Officer Cossette on one occasion in regard to his excessive speed. The incidents did not involve accidents or injuries, and the discipline of counseling letter is consistent with counseling given to officers under this situation.
- Officer Shean, I.A. 07-42: The Internal Affairs investigation involved Officer Shean's speeding while responding to a stolen vehicle report. The discipline imposed, one day suspension, appears justified under the circumstances, in that he was investigating a property crime which did not justify the Code 3 response and he never contacted the supervisor while traveling at the high speeds as required.

In summary, a review of all of the driving incidents does not reflect that there is a clear abuse of discretion or disparate treatment in regard to responding to each of those incidents,

many of which are speeding violations captured by in-car cameras. Rather the discipline, the result of that speeding and/or accidents, appears to be justified based upon a number of factors including disciplinary history of an individual, the facts of the case, and any resultant property damage or injury.

Alleged Disparate Treatment Relating to Conduct Unbecoming of an Officer

The complainants' submission contains many references to off duty conduct by various officers, particularly Officer Evan Cossette, that they assert represent disparate treatment, in that no official Police Department action was taken in regard to the alleged conduct. For his part, Officer Cossette denies most of those allegations in regard to his off duty conduct. Many of the allegations are based upon hearsay reported by the Complainants in their submission, and have not been verified. All of that specific conduct will not be recounted here in that there have not been presented any allegations where such off duty conduct has resulted in discipline being taken against an officer on account thereof. To the extent Officer Sullivan compares it to his I.A. complaint relating to his DUI arrest, the distinctions between it and the allegations in the complaint in regard to Officer Cossette's off duty conduct are apparent. Significantly, none of that conduct involved his being arrested. Certain of the allegations, however, will be addressed briefly here.

The complainants allege disparate treatment in regard to an incident involving Officer Cossette and Officer Beau Cassanova. They allege in their submission that at a party hosted by another officer, that while fellow officers were throwing each other into the swimming pool, and attempting to throw Officer Cossette into the pool, Officer Cassanova stated that he was going to engage in conduct that would amount to a very serious assault on Officer Cossette and that he attempted such conduct. They allege that Officer Cossette filed a criminal complaint against Officer Cassanova in regard to that conduct and that an Internal Affairs investigation was initiated and Officer Cassanova placed out of work. They allege that he was threatened with

arrest and forced to resign from the Department. They allege that after his resignation, Officer Cossette withdrew his criminal complaint and the entire matter went away.

I have interviewed various people within the Department with regard to this event and its ultimate conclusion. Without getting into detail, I conclude that the allegations made by the Complainants, if true, would not amount to disparate treatment as against Officer Cassanova given the allegations that they make in regard to his conduct. Moreover, it is understood that Officer Cassanova ultimately voluntarily resigned from the Police Department under arrangements that were acceptable to him. That the Internal Affairs complaint against him would be dismissed as part of that resolution is not extraordinary, nor is Officer Cossette's agreement to withdraw any criminal complaint against Officer Cassanova as a result of his resignation and the termination of any criminal investigation in regard to the event. In my review, these allegations do not amount to disparate treatment as between Officer Cassanova and Officer Cossette, nor any other officers present at the party. There is not support for the complainants' allegation that this was clearly a case of retaliation against Officer Cassanova for him repeatedly picking on Officer Cossette. While other instances of Officer Cassanova picking on Officer Cossette may be true, my review of the file and discussions with witnesses indicate that the case, and ultimate disposition, stood on its own merits.

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Conclusion

After carefully considering each of the allegations within the Complaint, and reviewing numerous reports and conducting several interviews pertaining to each, I have concluded that there is not sufficient evidence to establish the existence of improper nepotism, favoritism, or disparate treatment in regard to the rendering of discipline at the Meriden Police Department. Each incident seems to be adequately investigated when brought to the attention of Internal Affairs, and assessed on its merits. As it relates to the rendering of discipline after an investigation, by the Chief or Deputy Chief as the case may be, a number of factors in addition to the findings by the internal affairs investigations appear to be properly considered, including disciplinary history and of an individual, and their acceptance of responsibility in regard to an incident. Because of the varying experience and characteristic of individuals and the varying degrees of acceptance of responsibility and criticism, sometimes results can be looked at and considered to be disparate treatment, but my review of each of the cases raised in the Complaint and my investigation indicates that the conclusions that were reached were reasonable and not an abuse of discretion by the Chief or Deputy Chief, the ultimate decision-maker in each instance. Significantly, other than the Complainants, and one other officer, all officers I interviewed believed that the disciplinary process at MPD was fair and even handed, even if individuals did not agree with particular discipline that may be rendered.

As to the allegations of a pattern of excessive force by Officer Evan Cossette, my investigation indicated that there would be no reason that MPD management, including the Internal Affairs unit or the Deputy Chief would expect that there was such a pattern of excessive force. That is so because many of the incidents alleged by the Complainants were never brought to the attention of Internal Affairs or the Chief's Office. After looking at those unreported cases, in all instances, according to the officers that were involved in the incident, there was no reportable excessive force. In regard to the three Internal Affairs investigations in which Officer Cossette was involved, the conclusions by the Internal Affairs unit in all instances would appear to be reasonable. As to the Temich matter, where Deputy Chief Topulos imposed discipline for a

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lesser charge than that found by Internal Affairs, that conclusion does not appear to be unreasonable or an abuse of discretion, and one that was agreed to by the Director of Personnel for City of Meriden. That decision was based upon the view that Officer Cossette did not intend to harm Mr. Temich, which is a reasonable position upon review of the video. However, as noted in the report, at the very least the conduct was inappropriate, and his actions with Mr. Temich after he fell and struck his head troubling. At the end of the day, however, I cannot say that the decision regard to that matter was unreasonable or an abuse of discretion by Deputy Chief Topulos. Moreover, I do not believe that he was improperly influenced in rendering his decision because of Officer Cossette's status as the son of Chief Cossette.

In order to avoid some of the issues that have arisen as a part of the Complaint in this instance, the department may want to reconsider its policy regard to a non-nepotism. That is, in a situation such as this, whenever discipline or reward is to be given to a family member by a decision-maker such as the Chief or his designee, there is also always the possibility of at least the appearance of impropriety and people questioning that decision. If not an anti-nepotism policy, the department may want to consider whether or not disciplinary decisions or investigations and decisions for family members should be rendered by some agency other than MPD, such as the Connecticut State Police or another department, or least with the participation of some other agency.

In regard to the internal affairs function, my investigation and interviews with several people in MPD indicated that Sergeant Caponigro did an admirable job over many years in being the main investigator in the Internal Affairs unit. That said, the future of the I.A. unit could perhaps be enhanced by rotating more individuals through the unit for new perspective and new ideas. As noted above, MPD could also benefit from putting in place internal affairs unit policies where it could be clearer that a complainant has been contacted before closing a file for lack of response. For instance, it could be required that there be contact by telephone or at least a certified letter verifying an individual has received notice of requests for additional information or action, before closing the file.